



July 29, 2024

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
Hubert H. Humphrey Building, Room 445–G
200 Independence Avenue, SW
Washington, DC 20201

Re: Mitigating the Impact of Significant, Anomalous, and Highly Suspect Billing Activity on Medicare Shared Savings Program Financial Calculations in Calendar Year 2023 (CMS–1799–P)

Dear Administrator Brooks-LaSure:

The National Association of ACOs appreciates your prompt attention to the impact of significant, anomalous, and highly suspect billing impact on ACOs. We support this proposed rule which would hold ACOs harmless from anomalous billing for catheters experienced in 2023. Addressing the anomalous spending will help keep participants in the models, continuing progress on CMS's goal of having all Medicare patients in an accountable care relationship by 2030.

We ask that CMS consider additional approaches when finalizing and implementing this rule:

- **Addressing other occurrences of significant, anomalous, and highly suspect billing.** ACOs have identified other areas that would warrant the same treatment in 2023. For example, ACOs have reported significant increases in billing for skin substitutes, with Medicare payments rising from \$1.3 billion in 2022 to \$3.9 billion in 2023. This change in spending is largely attributed to five new high– cost codes that have varying local coverage determinations. ACOs have also reported SAHS billing for ventilators, diabetic supplies, and collagen dressings. While some of these instances are regional rather than nationwide, like catheters, this SAHS billing will detrimentally impact ACO savings unless accounted for by CMS.
- **Alter MSSP Timelines.** CMS has stated that reconciliation will be delayed by six weeks to account for the finalizing and implementing this rule. ACO financial performance drives decision making for subsequent years. Accordingly, CMS should extend all other ACO participation deadlines by six weeks. This includes, risk track selection, participation lists, and decisions to participate in the ACO PC Flex Model.

We also appreciate that the agency has proposed permanent policies that will address future instances of anomalous billing in the 2025 Medicare Physician Fee Schedule proposed rule. Collectively, these policies address many of our [recommendations](#). We look forward to continuing to work together on long-term solutions to address significant, anomalous, and highly suspect expenditures. There are opportunities to improve how ACOs report fraud, as well as to better educate ACOs on the processes

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CMS and the HHS OIG undertake to investigate fraud. As the HHS OIG has previously noted, ACOs are excellent sources to uncover potential fraud, waste, and abuse by identifying patterns of unusual billing

Thank you again for the quick response to this critical issue. NAACOS looks forward to working together on reducing fraud, waste, and abuse in Medicare, which are vital to creating a sustainable program. If you have any questions, please contact Aisha Pittman, senior vice president, government affairs at aisha_pittman@naacos.com. We appreciate your consideration of our concerns and value your continued leadership in supporting the movement to value-based care.

Sincerely,

A handwritten signature in black ink, appearing to read 'Clif Gaus', with a long horizontal flourish extending to the right.

Clif Gaus, Sc.D.
President and CEO
NAACOS